

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1714.01
COMPLAINT INVESTIGATOR:	Sandie Scudder
DATE OF COMPLAINT:	March 15, 2001
DATE OF REPORT:	April 11, 2001
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	May 9, 2001

COMPLAINT ISSUES:

Whether the Madison Consolidated Schools and the Madison Area Education Special Services Unit violated:

- 511 IAC 7-27-2(a) with regard to the school's alleged failure to schedule a case conference committee (CCC) meeting at a mutually agreed upon date and time.
- 511 IAC 7-27-2(c) and (d) and 511 IAC 7-17-3 with regard to the school's alleged failure to provide the parent with adequate written notice of the CCC meeting.
- 511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically, failing to provide an educational assistant.
- 511 IAC 7-23-1(p) with regard to the school's alleged release of personally identifiable information about the student without the parent's consent.

FINDINGS OF FACT:

1. The student (Student) is 10 years old and eligible for special education services as a student with an Other Health Impairment.
2. On March 9, 2001, the principal left a voice mail message for the complainant that the Student was being suspended. The principal telephoned the complainant on March 10, 2001, regarding a meeting related to the Student's suspension. On March 11, 2001, the Student's father left a voice mail message for the Director of Clinical and Special Services, requesting that a CCC be convened as soon as possible. The Director of Clinical and Special Services returned the parent's call the same day, advising that he would make the necessary phone calls on Monday (March 12, 2001) to try to schedule the CCC meeting for the time the suspension meeting was already scheduled. The Student's counselor could not attend a meeting on March 12, 2001, but was available on March 14, 2001, at 8:30 a.m. The Complainant specifically wanted the counselor to attend the CCC meeting, so the Director contacted the Complainant about scheduling the CCC meeting for the morning of March 14, 2001. The Complainant agreed to the meeting on March 14 at 8:30. The Complainant asserts that the school failed to send her written notification of the March 14 CCC meeting. The school acknowledges that it failed to provide the parent with adequate written notice of the March 14 CCC meeting.

3. The Student's IEP dated May 3, 2000, states on page 9 that the Student will receive "[a]dditional assistance in the classroom due to health, behavior and academic concerns as needed" as part of the specific special education services the Student will receive. There is no explanation of how it will be determined when the Student needs or no longer needs the additional assistance. The IEP does not specify that a teacher assistant (TA) will provide the extra assistance; however, the Director of Clinical and Special Services stated the CCC's understanding that the "extra assistance" denoted a TA. The duration of the services is from August 23, 2000 through June 5, 2001.
4. According to the Director of Clinical and Special Services, on September 25 or 26, 2000, the School staff agreed that the Student's behavior had improved; therefore, a TA was no longer needed in the classroom. The CCC did not convene to change this service, nor was the parent notified that the TA would no longer be providing assistance to the Student. The TA's last day in the classroom was September 29, 2000. The TA was reassigned to the Student's classroom beginning on April 2, 2001.
5. Parents of some of the students in the Student's classroom called the school regarding the incident in which the Student was involved on March 9, 2001. The Principal states that identifiable information pertaining to the Student was not disclosed when talking to parents about the incident. The Director of Clinical and Special Services reported that parents asked for information concerning "added protection Special education students have under the Special Education Law". The Director assumed that students informed their parents that the incident involved a special education student. The Director stated that, in answering these questions, no personally identifiable information about the Student was disclosed.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School scheduled the CCC meeting at a date and time agreeable to the parent. Therefore, no violation of 511 IAC 7-27-2(a) occurred.
2. Finding of Fact #2 reflects the school failed to provide the parent with adequate written notice of the March 14, 2001, CCC meeting. Therefore, violations of 511 IAC 7-27-2(c) and 511 IAC 7-17-3 are found.
3. Findings of Fact #3 and #4 indicate that, although the IEP did not specify that the "additional assistance" for the Student would be provided by a TA, the understanding of the CCC was that extra assistance would be provided by a TA. The TA provided additional assistance to the Student until the school unilaterally determined that the service was no longer needed at the end of September 2000. The duration of this service, according to the IEP, was to be from August 23, 2000 through June 5, 2001. Therefore, a violation of 511 IAC 7-27-7(a) occurred.
4. Finding of Fact #5 reflects that the school did not disclose personally identifiable information about the Student. Therefore, no violation of 511 IAC 7-23-1(p) occurred.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Madison Consolidated Schools and the Madison Area Education Special Services Unit shall:

1. Convene the CCC for the Student to determine if compensatory services are warranted as the result of the lack of "additional assistance" between the end of September 2000, and April 2001. Revise the IEP to clarify what is meant by "additional assistance . . . as needed" and the individual or individuals who will be responsible for providing this additional assistance. **A copy of the CCC Report/IEP shall be submitted no later than May 1, 2001.**
2. Send a written reminder to appropriate staff regarding the following requirements:
 - a. School must provide the parent with adequate written notice of the CCC meeting as described in 511 IAC 7-17-3, and
 - b. The CCC is responsible for making revisions to a Student's IEP per 511 IAC 7-27-4(c), and
 - c. A Student's IEP must be implemented as written – see 511 IAC 7-27-7(a).

Documentation in the form of a copy of the written reminder and a list of the individuals to whom the reminder was sent shall be submitted to the Division no later than May 4, 2001.

DATE REPORT COMPLETED: April 10, 2001